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June 27, 2006

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**ELECTRONICALLY FILED
(VIA ECFS)**

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

**Re: MB Docket No. 03-15
WNYA(TV), Pittsfield, Massachusetts (Facility ID #136751)
Request for Waiver of Replication/Maximization Interference
Protection Deadline**

Dear Ms. Dortch:

On behalf of Venture Technologies Group, LLC ("VTG"), the licensee of analog-only television station WNYA(TV), Pittsfield, Massachusetts, we hereby request a waiver of the July 1, 2006 replication/maximization interference protection deadline applicable to this station. *See Second Periodic Review of the Commission's Rules and Regulations Concerning the Transition to Digital Television*, MB Docket No. 03-15, FCC 04-192, ¶ 78 (Sept. 7, 2004) ("*Second Periodic Review*"). This request is being filed electronically through ECFS pursuant to the FCC's public notice regarding requests for waiver of the deadline. *See Public Notice, DTV Channel Election Issues – Compliance with the July 1, 2006 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline*, DA 06-1255 (June 14, 2006).

WNYA(TV) is a single-channel station licensed and operating on NTSC channel 51. It was not assigned a paired digital channel in the initial DTV Table of Allotments. It has requested and received a tentative channel designation of channel 13 in the second-round channel election process. In its Pre-Election Certification (FCC Form 381), WNYA(TV) certified that it would operate its post-transition DTV station at maximized facilities as authorized in its then-outstanding analog construction permit (File No. BNPCT-20020320ABU).

Due to circumstances beyond its control, however, VTG was not able to complete construction of the full facilities authorized in WNYA(TV)'s original analog construction permit. Specifically, the WNYA(TV) analog site (on Berry Mountain, within the State of Massachusetts' Pittsfield State Forest) has proven unworkable for the station's operation with the full power authorized by its original construction

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permit because three-phase power is unavailable at the site. VTG representatives have inquired of the local electric utility about bringing three-phase power to the site. The utility has advised that doing so would require a completely new buildout of power poles and lines in order to comply with current codes and standards, including tree removal to provide a firebreak around the poles and lines. VTG has been advised by Massachusetts park authorities that such a renovation would not be approved. As a result, VTG commenced operation of WNYA(TV) under special temporary authority ("STA") for a reduced-power facility at a lower antenna height. In September 2005, with WNYA(TV)'s original analog construction permit approaching its expiration date of January 21, 2006, VTG was forced, in order to preserve the construction permit, to file an application to modify the WNYA(TV) construction permit to match the parameters of its STA. See File No. BMPCT-20050927AHS. The Commission approved the permit modification on January 19, 2006. VTG immediately filed an application for license to cover the modified construction permit, which was granted in March 2006. See File No. BLCT-20060120ABO.

VTG's intention, once it is able to do so, is to seek authorization for and promptly construct DTV facilities for WNYA(TV) that replicate, as nearly as practicable, the facilities authorized in the station's original analog construction permit. VTG is unable to pursue such facilities in the near term, however. WNYA(TV) was assigned no paired DTV channel; it has no DTV authorization; it has only recently secured a tentative post-transition DTV channel designation in the election process; and it is precluded from applying for its desired DTV facilities on that channel during the current application freeze in connection with development of the final DTV Table.

As discussed above, VTG's inability to construct the full facilities authorized in WNYA(TV)'s original analog construction permit is due to reasons plainly beyond its control. Under these circumstances, the public interest would be served by waiving the July 1, 2006 replication/maximization interference protection deadline to the extent necessary to maintain interference protection to the full extent of WNYA(TV)'s original analog construction permit. A grant of the requested waiver would ensure that WNYA(TV)'s interference protection is not limited to the service area presently achieved by a reduced power analog facility that VTG, for reasons beyond its control, was compelled to construct. *See, e.g. Digital Television Construction Deadline*, 16 FCC Rcd 8122 at ¶ 11 (2001) (manufacturing backlog, unexpected work stoppages, and unexpected changes in proposed facilities are

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circumstances beyond a licensee's control, warranting the extension of DTV construction deadlines). This in turn will permit VTG the flexibility to design, seek authority for, and construct a DTV facility that is maximized as fully as possible, once the Commission's DTV transition procedures allow it to do so.

Should there be any questions concerning this matter, please contact the undersigned.

Very truly yours,



Gregory L. Masters

cc: Shaun Maher, Esq., Video Division (via email)